

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:10-cv-400-FDW-DSC**

JACKIE JAMES MOSS,

Plaintiff,

vs.

**NATIONWIDE MUTUAL INSURANCE
CO., NATIONWIDE LIFE INSURANCE
OF AMERICA, NATIONWIDE
ASSURANCE CO., and NATIONWIDE
INSURANCE COMPANY OF
FLORIDA,**

Defendants.

ORDER

THIS MATTER is before the Court on Defendants Nationwide Mutual Life Insurance Company and Nationwide Mutual Insurance Company's Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6).¹ (Doc. No. 17). Defendants argue that Plaintiff's Complaint fails to allege sufficient factual allegations, neither of racial animus or intent to discriminate nor how such animus interfered with a contractual interest possessed by Plaintiff, to state a claim for relief under 42 U.S.C. § 1981 (Doc. No. 18). See, e.g., Denny v. Elizabeth Arden Salons, Inc., 456 F.3d 427, 434 (4th Cir. 2006). Defendants' Motion has been fully briefed and is ripe for disposition.

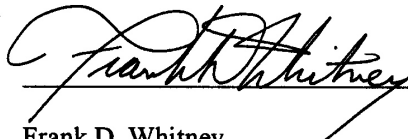
After considering the allegations in Plaintiff's Complaint and the controlling law, the Court believes that determination of the legal sufficiency of Plaintiff's claims against Defendants should be deferred until the next dispositive stage of litigation. See Flue-Cured Tobacco Co-op. Stabilization Corp. v. U.S. Env'tl. Prot. Agency, 857 F. Supp. 1137, 1145 (M.D.N.C. 1994) ("This

¹ Defendants Nationwide Assurance Company and Nationwide Life Insurance Company challenge the Court's personal jurisdiction over them. (Answer ¶¶ 5-6, Third Aff. Def.).

claim can be adjudicated more accurately after the parties have developed the factual record.”); Initial Scheduling Order, 3:07-MC-47 (Doc. No. 2) at § 3(c)(2) (“[T]he Court may elect to defer ruling on issues raised in Rule 12 and similar motions until the close of discovery”). The Court therefore DENIES Defendants’ Motion to Dismiss pursuant to Rule 12(b)(6) at this time.

IT IS SO ORDERED.

Signed: March 29, 2011



Frank D. Whitney
United States District Judge

